

## **GUARDIANSHIP RULES**

### **RULE 1**

In all guardianship matters pertaining to declaring an adult incapacitated for any reason, at a minimum, an Affidavit in a form acceptable to the Court, executed by the Doctor treating the alleged incapacitated person, must be submitted at the time the petition is filed, or on the hearing date. No determination will be made without supporting medical testimony. (SEE ATTACHED FORM)

### **RULE 2**

In all instances, a bond shall be required to the full extent of the value of the personal property assets and one year's estimated income from all assets in the Guardianship. No exceptions will be permitted.

### **RULE 3**

Where a restricted account has been created, an acknowledgment of or acquiescence to the restriction by the financial institution involved must be filed by the Guardian's Attorney within ten (10) days of the Court Order creating such an account.

### **RULE 4**

Current reports filed by the Guardian must show the present whereabouts of the protected person and his/her general welfare.

### **RULE 5**

All Guardian's Accountings must contain a certification by an officer of a financial institution or the holding institution that the assets remaining in the guardianship, other than real estate, have been exhibited to him, and that they correspond with what is shown in the recapitulation section of the accounting. (See attached forms.)

### **RULE 6**

Where contracts for legal services have been entered into prior or subsequent to the opening of a Guardianship without prior Court approval, or when a settlement has been reached and no Guardianship is required, the Court reserves the right to approve or disapprove the fee contracts consistent with fee guidelines and/or Court policy.

## RULE 7

All Social Security benefits received on behalf of a protected person must be included and accounted for in the Guardian's accountings.

## RULE 8

Neither the Guardian or the Attorney shall receive any fees until the amount thereof has been approved by the Court.

## RULE 9

An order per form must be submitted at the time of the appointment of a Guardian, detailing the duties, responsibilities and powers of the Guardian. Any limitation on the duties, responsibilities and powers of the Guardian must be detailed on a separate schedule which is to be added to the Letters of Guardianship.

## RULE 10

In the event an individual is appointed Guardian to handle the financial affairs of a protected person, the Guardian shall file his/her first current account within thirty (30) days after the first anniversary of the date on which the letters were issued.

## RULE 11

A Guardian ad litem shall be appointed in all instances in which the appointment of a Guardian is sought, unless waived by law or by the person for whom the appointment of a Guardian is sought, or the alleged incapacitated person is represented by Counsel.

## ENTRY 1

\_\_\_\_\_ files Petition for Appointment of Guardian of \_\_\_\_\_, alleged incapacitated person. Court sets hearing on \_\_\_\_\_, 199\_\_, at \_\_\_\_\_ a.m./p.m. Court finds that (no) necessity exists for appointment of Guardian ad litem. \_\_\_\_\_ appointed Guardian ad litem and is ordered to qualify.

## ENTRY 2

Due Notice, as provided by law, has been given. Evidence submitted. Court finds \_\_\_\_\_ to be incapacitated as defined by law. Court appoints \_\_\_\_\_ Guardian of \_\_\_\_\_, the Protected Person with the powers and responsibilities set forth in its Order.

#### ENTRY 3

\_\_\_\_\_ files Petition for Appointment of Guardian of \_\_\_\_\_, alleged incapacitated person. All necessary consents and/or waivers filed and approved. Evidence submitted. Court finds no necessity exists for appointment of Guardian ad litem and further that \_\_\_\_\_ is incapacitated as defined by law. Court appoints \_\_\_\_\_ Guardian of the Protected Person, with the powers and responsibilities set forth in its Order.

#### ENTRY 4

Guardian files Oath and Bond. Examined and approved. Letters ordered issued with the powers and responsibilities set forth in its Order of Appointment.

#### ENTRY 5

Proof of restrictions on withdrawal of assets having been filed, Court waives accounting and orders certification of deposit to be filed every two years in lieu thereof.

#### ENTRY 6

Inventory submitted showing personal property with a value of \$\_\_\_\_\_ and real property with a value of \$\_\_\_\_\_. Examined and approved.

#### ENTRY 7

Guardian files Petition to Sell Real Estate. Evidence submitted. Court orders real estate sold.

#### ENTRY 8

Guardian files Report of Sale of Real Estate and Deed for approval. Evidence submitted. Court now approves Report of Sale and Guardian's Deed.

#### ENTRY 9

Guardian files Current Accounting for the period from \_\_\_\_\_ to \_\_\_\_\_. Evidence submitted. Court now approves Current Accounting.

#### ENTRY 10

Guardian files Petition for Allowance of Attorney Fees. Evidence submitted. Attorney fees allowed in the amount of \$\_\_\_\_\_.

#### ENTRY 11

Guardian files Petition to allow and settle Final Account. The Final Account is approved, settled and confirmed. The distribution of assets, as set forth in the Accounting has been made and is hereby approved. The Guardian is hereby released and discharged from any further liability or responsibility. Surety released and discharged. Guardianship ordered closed.

#### ENTRY 12

Guardian files Petition to allow and settle Final Account. The Final Account is approved, settled and confirmed. The Guardian is hereby directed to make distribution as provided for in the Final Account and file Supplemental Report showing the distribution to have been made.

#### ENTRY 13

Guardian files Supplemental Report showing distribution has been made as provided in the Final Account. Petition examined and approved. The Court now orders Guardian discharged. Surety released and Guardianship ordered closed.

FORM A. [FN1] ACCOUNT VERIFICATION

## ACCOUNT VERIFICATION

TO: \_\_\_\_\_

FROM: \_\_\_\_\_  
Guardian's Name

RE: Guardianship of \_\_\_\_\_

In order to comply with the rules of the Probate Court, I am required to file a Certification of Account Balances. Please certify the balances and names on the accounts I have listed below, as of \_\_\_\_\_, 199\_\_.

Dated: \_\_\_\_\_

Guardian: \_\_\_\_\_  
Guardian's Name

### FOR BANK USE ONLY:

I certify that on \_\_\_\_\_, 199\_\_, the last day of the period covered by this accounting, there was on deposit in this institution to the credit of the Guardian, the following balance:

NAME ON ACCOUNT DATE	ACCOUNT NUMBER	BALANCE
_____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____



I certify that the securities listed herein were exhibited to me by the Guardian,  
\_\_\_\_\_, as being the property of the Protected Person and in the custody of  
the Guardian.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature and Title of Certifying Officer

\_\_\_\_\_  
Name and Address of Institution

#### FORM C. [FN1] PHYSICIAN'S REPORT

#### PHYSICIAN'S REPORT

\_\_\_\_\_, a physician holding an unlimited license to practice medicine in the  
State of Indiana, submits the following report on \_\_\_\_\_, "Patient", based  
upon examination of Patient.

1. Set forth the dates of all examinations of the Patient within the last one (1) year from  
the date hereof.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

2. In your opinion, based upon your examination and observation of the Patient, is the Patient incapacitated? If so, describe the nature and type of incapacity.

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3. In your opinion, based upon your examination and observation of the Patient, how long has the Patient been incapacitated?

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4. Describe the Patient's mental and physical condition; and, if appropriate, describe the Patient's educational condition, adaptive behavior and social skills.

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5. In your opinion, is the Patient totally or only partially incapable of making personal and financial decisions? And, if the latter, state the kinds of decisions which the Patient can and cannot make. Include the reason for this opinion.

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6. In your opinion, what is the most appropriate living arrangement for the Patient? And, if applicable, describe the most appropriate treatment or rehabilitation plan. Include the reasons for your opinion.

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7. Can the Patient appear in Court without injury to his/her health? \_\_\_\_\_ Yes  
\_\_\_\_\_ No

If the answer is no, explain the medical reasons for your answer.

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8. Is the Patient capable of consenting to the appointment of a Guardian? \_\_\_\_\_  
Yes \_\_\_\_\_ No

9. Is the nature of the Patient's incapacity such that it prevents the Patient from making a knowing and voluntary Waiver of Notice? \_\_\_\_\_ Yes \_\_\_\_\_ No

10. In your opinion, is a Guardian needed to care for the Patient? \_\_\_\_\_ Yes  
\_\_\_\_\_ No.

If a Guardian is needed, is one needed for personal or financial needs, or both?

\_\_\_\_\_ Personal \_\_\_\_\_ Financial \_\_\_\_\_ Both

I affirm, under the penalties of perjury, the above and foregoing is true and correct to the best of my knowledge and belief.

Signed: \_\_\_\_\_  
Address: \_\_\_\_\_

Tele: \_\_\_\_\_  
Dated: \_\_\_\_\_

If the description of the Patient's mental, physical and educational condition, adaptive behavior or social skills is based on evaluations by other professionals, please provide the names and addresses of all professionals who are able to provide additional evaluations. Evaluations on which the report is based should have been performed within three (3) months of the date of the filing of the Petition.

Names and addresses of other persons who performed evaluations upon which this report is based:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Tele: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Tele: \_\_\_\_\_